

## REDISTRICTING AT THE TWO-THIRDS MARK

The energy and resources poured into the 2010 legislative races are paying large dividends in the ongoing redistricting process now passing two-thirds completion in preparation for this year's elections. Not only did the GOP make major gains in control of legislatures and individual chambers in 2010, but the tide of victory combined with last year's elections and party switches increased our control of the process. The GOP was in full control of congressional redistricting in states containing 215 districts – as compared to the Democrats' 44.

Our control was key in states both gaining and losing seats in the reapportionment of the U. S. House as a result of population shifts documented by the 2010 decennial Census. This allowed us to build new GOP seats in gaining states and to force the Democrats to take the "hit" in states losing seats. It also allowed us to adjust many other seats to shore up districts already held in both Congress and state legislatures.

State legislative maps have been enacted in 34 states and a different 33 of the 43 states which redraw congressional boundaries (seven states only contain one district). We now know where the new boundaries will be for 309 of the 435 (711%) U. S. House seats, so it is a logical time to assess the results and, perhaps, to project the final outcome, particularly with regard to Congress.

### [Insert Maps Showing States with Completed Legislative and *Congressional* Remaps]

So far the two parties are each holding their own with Democrats doing damage to the GOP in states they control, and Republicans drawing lines to their own advantage where they are in charge. However, many redistricting plans are, or will be, challenged or deadlocked in court. As was the case in the 2000 redistricting cycle, success or failure in court will have a crucial impact on the final outcome.

So far, in states where litigation costs are not being provided by the taxpayers, the Democrats are much better funded than the GOP. Democrats have a large multi-million dollar litigation fund and individual states' GOP stakeholders are having difficulty funding their litigation efforts. As of this date only Minnesota and Virginia are in deadlock litigation but prospects are high that New York will soon follow.

Even though two-thirds of the states have enacted plans, under the provisions of Section 5 of the Federal Voting Rights Act (VRA), 16 states must have their redistricting lines precleared either by the Federal District Court for the District of Columbia (DCDC), or by the US Department of Justice (DOJ) before they can be used for elections.

States entitled to 76 of the 295 congressional seats enacted have their congressional plan awaiting preclearance. So far DOJ has precleared the legislative maps for Georgia, Louisiana,

North Carolina, South Carolina, and Virginia, and raised objections to the Texas legislative and congressional maps. Other states with maps in the preclearance process have yet to hear back from DOJ. If preclearance is not forthcoming, many other remaps may end up on court. Voting Rights Act litigation is extremely complex and expensive, and some GOP stakeholders will also experience difficulty funding their VRA litigation.

Eleven states, Alabama, Arkansas, Hawaii, Idaho, Maine, Mississippi, Nebraska, New Mexico, Oklahoma, Oregon, and Wisconsin, have enacted new congressional maps which have minor adjustments to their previous plans.

### **KEY SUCCESSES:**

The Georgia, North Carolina, Ohio and Pennsylvania congressional maps offered strong victories for Republicans so far in the redistricting process.

Georgia's one seat gain in reapportionment benefits the GOP as the legislature is fully controlled by Republicans. They used this opportunity to draw a new GOP congressional seat and tighten control of other districts.

In North Carolina, Republicans took control of the Legislature in 2010 for the first time since 1870 and as a result, the GOP was able to unravel Democratic gerrymandering from past redistricting cycles. The partisan shift in the congressional map went from 6 GOP/7 DEM to 10 GOP/3 DEM. This will likely be the greatest seat gain for the GOP in any state. Republican majorities in both chambers of the Legislature were strengthened.

Ohio lost two seats in the 2010 reapportionment, so redistricting was made that much more difficult. The Legislature was redrawn by a GOP controlled commission and the legislative maps have strengthened its position in both chambers. The congressional map pairs two incumbents from each party and the map also made substantial improvements to the weaker GOP seats.

Pennsylvania also lost one seat in the 2010 reapportionment. The GOP controlled redistricting process produced a good legislative remap and an aggressive congressional map. The Democrats will take the hit on the lost seat and the GOP strengthens its margins in many of its present seats.

The RSLC invested over \$3 million in races across these states in 2010 through the Redistricting Majority Project (REDMAP), cementing new Republican majorities in the PA House, OH House, and in the NC House and Senate. Our investment in these states paid off tremendously and will help ensure Republican victories at the legislative and congressional levels for the next decade.

### **DEMOCRATIC GERRYMANDERING:**

There is no better example of the egregious nature of the Democratic redistricting machine than in Illinois. Illinois lost one seat in the 2010 reapportionment. The Democrats were in complete

control of both legislative and congressional line-drawing. In the last redistricting cycle Republicans and Democrats struck a deal, creating a bipartisan gerrymander. This time the Democrats went after GOP seats with a vengeance. The good news is, however, that this is the only state in this round of redistricting where the Democrats have control and were able to inflict major damage on the GOP.

Another example of an extreme Democratic gerrymander is the bizarre congressional district drawn in Maryland. A picture of some of these districts, shown below, will probably be the new poster board gerrymander for this decade's redistricting.

[Insert Maryland districts]

## **2012 OUTLOOK:**

Of the states which have not yet enacted plans, five are the most critical to the GOP's success in the congressional remap; although all are important in terms of legislative redistricting. These are Florida, New York, Virginia and West Virginia. Texas, although having enacted maps, is embroiled in multiple lawsuits, still remains in play and is discussed below.

In New York, a state losing two seats, control is split with a GOP-controlled State Senate and a Democrat-controlled Assembly. The usual compromise plans that have been enacted under past split party redistricting control may not work this cycle as Governor Cuomo has indicated he would veto the plan if it did not meet his standards. Action should begin later this month and only time will tell if the legislators and the Governor strike a deal where both parties each lose one seat.

Virginia still awaits a solution to its deadlocked congressional plans. The GOP has effective control of the entire process, but minority stakeholders have presented maps that contain two compact majority African-American districts while the GOP plan only contains one. Since Virginia's maps must be pre-cleared under Section 5 of the VRA, this remap might be more difficult to enact than expected. The Democrats have already filed a deadlock lawsuit.

Texas, due to a phenomenal population growth rate, gained 4 new congressional seats. The GOP has full control over both congressional and legislative redistricting and the Texas Legislature enacted extremely aggressive plans and, as a result Texas now finds itself embroiled in VRA litigation in two federal courts - one case in the DC District Court seeking to get its maps precleared, and a second case in the San Antonio District Court, where plaintiffs urged the court to declare that Texas did not create enough new Latino districts, and that that it should impose its own interim maps for the 2012 election, which it did in November.

The Texas Attorney General requested the U.S. Supreme Court issue a stay to block the interim map, and also requested the DC District Court move more quickly in its preclearance decision.

The Supreme Court did issue the stay, with a hearing scheduled for January 9<sup>th</sup>; which appears to have spurred the DC District Court to set a trial date on January 17<sup>th</sup>.

It is now unlikely that Texas will have legislative and congressional maps in place before early February at best; and the 2012 primary election, now rescheduled for April 3<sup>rd</sup>, is likely to be moved to an even later date.

Because of all this confusion, it is difficult to predict how the two parties will fare as a result of redistricting, with the newly apportioned congressional seats splitting anywhere from 3R/1D to 1R/3D.

Florida, which gained two seats, is due to enact new districts this month, but will be guaranteed intense litigation over the application of its newly passed redistricting criteria, and over its VRA Sections 2 and 5 performance. The Democrats intend to take a major stand in this state where, if they are successful in court, they could gain as many seats as in Illinois.

West Virginia just had its map thrown out by a federal court for a one person, one vote violation and is back to the drawing board. The State is appealing the decision to the U.S. Supreme Court. The GOP could take a hit in the second remap.

Here are our latest scorecard predictions:

[Insert Congressional Scorecard]